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19 Fabrice Petesch, and Jacques Viel

20 **UNITED STATES DISTRICT COURT**
21 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO**

22 TELESOCIAL INC.,

23 Plaintiff,

24 v.

25 ORANGE S.A., a French Corporation;
26 ANNE BENRIKHI, an individual;
27 DIMITRI DELMAS, an individual; ANN
28 DORNIER, an individual; OLIVIER
GODINIAUX, an individual;
GUILLAUME GUIMOND, an individual;
FABRICE PETESCH, an individual; and
JACQUES VIEL, an individual.

Defendant.

Case No. 3:14-cv-03985 JD

Assigned to Hon. James Donato

**DEFENDANTS' REQUEST FOR
JUDICIAL NOTICE IN SUPPORT
OF ITS MOTION TO DISMISS
TELESOCIAL'S COMPLAINT**

*[Notice of Motion and Motion; Declaration
of George Bermann; Declaration of
Catherine Le Drogo; Declaration of Daniel
Schimmel; and [Proposed] Order Filed
Concurrently Herewith]*

Date: January 28, 2015

Time: 9:30 a.m.

Room: 11

Action Filed: September 2, 2014

Trial Date: None Set

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that Defendants Orange S.A. (“Orange”),
3 Anne Benrikhi, Dimitri Delmas, Olivier Godiniaux, Guillaume Guimond, Fabrice
4 Petesch, and Jacques Viel, by and through their counsel of record, and in support of
5 their memorandum of points and authorities in support of the motion to dismiss the
6 Complaint of Plaintiff Telesocial Inc. (“TS”) for improper venue, under principles
7 of judicial estoppel and alternatively for *forum non conveniens*, respectfully submits
8 this Request for Judicial Notice pursuant to Federal Rule of Evidence 201 and the
9 case law cited herein. Defendants hereby requests that the Court take judicial notice
10 of the following documents:

11 1. TS’s first application for pre-action disclosure of documents, pursuant
12 to Article 145 of the French Code of Civil Procedure, filed with the Paris
13 Commercial Court on June 4, 2013, and the order granting that ex parte application
14 on the same day (the “Production Order”). An English translation, true and accurate
15 copy of the French original, and a translation certification are attached hereto as
16 Exhibit 1.

17 2. Excerpts of TS’s appellate brief filed with the Paris Court of Appeal on
18 March 25, 2014. An English translation of these excerpts, true and accurate copy of
19 the French original, and a translation certification are attached hereto as Exhibit 2.

20 3. Decision of the Paris Court of Appeal, dated July 1, 2014, reversing the
21 Production Order. An English translation, true and accurate copy of the French
22 original, and a translation certification are attached hereto as Exhibit 3.

23 4. Excerpts of TS’s second application for pre-action production of
24 documents, pursuant to Article 145 of the French Code of Civil Procedure, filed
25 September 25, 2014. An English translation of these excerpts, true and accurate
26 copy of the French original, and a translation certification are attached hereto as
27 Exhibit 4.

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1 Pursuant to Fed. R. Evid. 201(b), the Court may judicially notice a fact that is
2 not subject to reasonable dispute because it can be accurately and readily determined
3 from sources whose accuracy cannot reasonably be questioned. Judicial notice may
4 be taken “at any stage of the proceeding.” Fed. R. Evid. 201(d). Courts will take
5 judicial notice of documents in connection with motions to dismiss. *See, e.g., MGIC*
6 *Indem. Corp. v. Weisman*, 803 F.2d 500, 504 (9th Cir. 1986) (judicially noticeable
7 items may be considered when evaluating a 12(b)(6) motion).

8 This Court may take judicial notice of TS’s filings in the French lawsuit as
9 well as the French decision contained in Exhibits 1-4. *See In re Toyota Motor*
10 *Corp.*, No. 8:10ML 02151 JVS (FMOx), 2011 WL 6004569, at *2 (C.D. Cal. Nov.
11 30, 2011) (granting motion to dismiss); *Gabbanelli v. Gabbanelli*, 575 F.3d 693 (2d
12 Cir. 2009); *Reyn’s Pasta Bella, L.L.C. v. Visa U.S.A., Inc.*, 442 F.3d 741, 746 n.6
13 (9th Cir. 2006) (The court may take notice of “court filings and other matters of
14 public record.”) (affirming order of dismissal).

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16 DATED: December 1, 2014

KELLEY DRYE & WARREN LLP

Daniel Schimmel

Lee S. Brenner

18 By /s/ Lee S. Brenner

19 Lee S. Brenner

20 Attorneys for Defendants Orange S.A., Anne
21 Benrikhi, Dimitri Delmas, Olivier Godiniaux,
22 Guillaume Guimond, Fabrice Petesch, And
23 Jacques Viel
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